

IC 34-40

ARTICLE 40. EVIDENCE: RECORDS OF PUBLIC AGENCIES

IC 34-40-1

Chapter 1. Prima Facie Proof of Lack of Records or Entry in Records Kept in Public Offices

IC 34-40-1-1

Inapplicability of chapter to criminal proceedings

Sec. 1. (a) This chapter applies to civil proceedings in which a party seeks to prove the lack of a record or entry in a record kept in a public office.

(b) This chapter does not apply to any criminal proceedings.

As added by P.L.1-1998, SEC.36.

IC 34-40-1-2

Prima facie proof of lack of record

Sec. 2. (a) Whenever a record or book kept in a public office of this state or a political subdivision of this state is admissible for any purpose as evidence in:

- (1) a civil proceeding in any court of this state; or
- (2) a hearing or determination before a board, commission, or officer of this state, or a political subdivision of this state;

a written statement that meets the requirements of subsection (b), is admissible in evidence as prima facie proof of the lack of record or entry.

(b) The statement described in subsection (a) must:

- (1) be signed by:
 - (A) an officer or person who has custody of official records or books; or
 - (B) a deputy of the officer or person described in clause (A);
- (2) state that, after diligent search no record or entry of a specified tenor is found to exist in the records of the office of the officer or person described in subdivision (1)(A); and
- (3) include the seal of the office, if there is a seal.

As added by P.L.1-1998, SEC.36.

IC 34-40-1-3

Proof of record by other sources

Sec. 3. (a) Proof of the lack of a record or entry as provided in section 2 of this chapter does not prevent the proof of:

- (1) an official record or book; or
- (2) the lack of an entry in an official record or book;

by any method authorized by an applicable statute, the Indiana rules of evidence, or at common law.

(b) This chapter shall be considered and construed as:

- (1) being supplemental to other applicable statutes, the Indiana rules of evidence, and common law; and

(2) giving an additional means of proof of the lack of an entry.
As added by P.L.1-1998, SEC.36.